

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

MICHAEL MILLER,
El (sui Juris, Propria persona)

Plaintiff,

v.

Civil Action No. 2:22-cv-00133

JACKSON COUNTY SHERIFF DEPARTMENT

Defendant.

MEMORANDUM OPINION AND ORDER

Pending are plaintiff's complaint (ECF 2) and application to proceed without prepayment of fees and costs (ECF 1), filed March 10, 2022. This action was previously referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). The magistrate judge filed his PF&R on January 13, 2023 (ECF 5), recommending the court dismiss plaintiff's complaint and this civil action for failure to prosecute.

The court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings and recommendations to which no objection has been addressed. See Thomas v. Arn, 474 U.S. 140 (1985); see also 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified

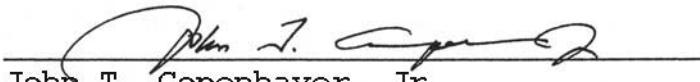
proposed findings or recommendations to which objection is made.") (emphasis added). Failure to timely file objections constitutes a waiver of de novo review and the plaintiff's right to appeal the order of the court. See 28 U.S.C. § 636(b)(1); see also United States v. De Leon-Ramirez, 925 F.3d 177, 181 (4th Cir. 2019) (parties typically may not "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989). Objections in this case having been due on January 30, 2023, and none having been filed, this matter may be duly adjudicated.

Accordingly, it is ORDERED that the findings made in the magistrate judge's Proposed Findings and Recommendation be, and hereby are, adopted by the court and incorporated herein.

It is, therefore, ORDERED that this civil action be, and it hereby is, dismissed. It is further ORDERED that the plaintiff's application to proceed without prepayment of fees and costs be, and it hereby is, denied as moot.

The Clerk is directed to forward copies of this written opinion and order to the plaintiff, all counsel of record, and the United States Magistrate Judge.

Enter: February 8, 2023


John T. Copenhaver, Jr.
2 Senior United States District Judge